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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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12 DAVID RUSSELL HART,

13 Plaintiff,

CIV. S-04-2497 DFL PAN PS

14 v.

15 COMMISSIONER OF INTERNAL REVENUE  
16 SERVICE,

FINDINGS AND RECOMMENDATIONS

17 Defendant.  
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19 On July 7, 2005, this court directed plaintiff to file,  
20 by July 20, proof of service of process upon defendant. The  
21 court provided specific instructions, identifying the  
22 individuals, agencies and addresses to whom plaintiff need send a  
23 copy of the summons and complaint in order to comply with the  
24 federal rules of civil procedure.

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1 On July 12, 2005, plaintiff filed a "Status Report"<sup>1</sup> in  
2 which he states he served process on May 24, 2005. He attached a  
3 copy of forged summons and an incompetent "proof" of service.

4 The court admonished in its July 7, 2005, order that  
5 failure to comply with the order would result in a recommendation  
6 this action be dismissed pursuant to Fed. R. Civ. P. 4(m) and  
7 Fed. R. Civ. P. 41(b).

8 Accordingly, I recommend this action be dismissed due to  
9 plaintiff's failure timely to serve process (Fed. R. Civ. P.  
10 4(m)) and failure to comply with the rules and orders of this  
11 court (Fed. R. Civ. P. 41(b)). See also, Fed. R. Civ. P. 16(f)  
12 (authorizing dismissal pursuant to Rule 37(b)(2)(C) "[i]f a party  
13 . . . fails to obey a . . . pretrial order"); E. D. Cal. L. R.  
14 11-110 ("[f]ailure of . . . a party to comply with these Rules or  
15 with any order of the Court may be grounds for imposition by the  
16 Court of any and all sanctions authorized by statute or Rule or  
17 within the inherent power of the court").

18 These findings and recommendations are submitted to the  
19 Honorable David F. Levi, the United States District Judge  
20 assigned to this case. 28 U.S.C. § 636(b)(1). Written  
21 objections may be filed within ten days after being served with  
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23 <sup>1</sup> The preamble to plaintiff's "Status Report" states:

24 The nature of this case is, a born free State Citizen, now made a  
25 slave by the IRS, seeks his freedom restored. There is no law  
26 rule or regulation that places me the petitioner within the  
purview or venue of the U.S. Code Title 26, just prima facia  
evidence. I am therefore without the jurisdiction of the IRS.

1 these findings and recommendations. The document should be  
2 captioned "Objections to Magistrate Judge's Findings and  
3 Recommendations." The failure to file objections within the  
4 specified time may waive the right to appeal the District Court's  
5 order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

6 Dated: July 27, 2005.

7 /s/ Peter A. Nowinski

8 PETER A. NOWINSKI

9 Magistrate Judge  
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